



**U.S. Department of Justice**

Environment and Natural Resources Division

90-11-3-07683/17

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May 5, 2023

Leda Dunn Wettre  
United States Magistrate Judge  
United States District Court for the District of New Jersey  
Martin Luther King Building and U.S. Courthouse  
50 Walnut Street, Room 4015  
Newark, New Jersey 07101

Re: United States v. Alden Leeds, et al., No. 22-cv-7326-MCA-LDW

Dear Magistrate Judge Wettre:

This letter is submitted jointly by the United States, the Settling Defendants, and the Intervenor (collectively, the “Parties”) in the above captioned case in response to this Court’s Order of April 21, 2023. ECF No. 206. In its Order, the Court directed the Parties to (1) clarify whether formal complaints in intervention need to be filed and (2) propose next steps in the litigation and a schedule for such proceedings.

**I. Complaints in Intervention**

The Parties agree formal complaints in intervention need not be filed in this matter. All Intervenor agree that they will not formally file complaints and the United States and the Settling Defendants need not answer any proposed complaint in intervention.

**II. Next Steps in the Litigation**

As the Court noted in its April 21 Order, the public comment period on the proposed Consent Decree has ended. The United States received multiple public comments, including the comments submitted by Intervenor-Occidental Chemical Corporation (OCC). OCC’s comments total 777 pages, not including exhibits.

Paragraph 42 of the proposed CD states that “The United States may withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations that indicate that the Consent Decree is unfair, unreasonable, or inconsistent with the purposes of CERCLA.” ECF No. 2-1, ¶ 42. The United States is carefully considering all public comments. Given their breadth and depth, a proper review and evaluation will take time.

After a full review of the public comments, the United States will decide whether to request that this Court enter the proposed Consent Decree.

**III. Proposed Schedule [by all Parties] or [by Plaintiff United States, Intervenor Nokia, Pharmacia, and PVSC, and Settling Defendants]**

There are at least three possible positions that the United States may take, after it completes its review of the public comments:

- 1) First, the United States may conclude that the public comments do not disclose facts or considerations that indicate the proposed Consent Decree is unfair, unreasonable, or inconsistent with CERCLA; in this case the United States would seek entry of the proposed Consent Decree by motion with the Court, including in its motion papers a response to comments and a full set of the public comments received by DOJ;
- 2) Second, the United States may conclude and inform the Court that the public comments disclose facts or considerations that indicate the proposed Consent Decree must be modified; or
- 3) Third, the United States may conclude and inform the Court that the public comments disclose facts or considerations that indicate the proposed Consent Decree is unfair, unreasonable, or inconsistent with CERCLA, and that it withdraws its support.

Because each scenario set forth above would call for a different schedule with different events, [the Parties] agree that it would be difficult to create a proposed schedule for full resolution of the case at this time. Instead, the Parties respectfully propose to file joint status update letters on the docket every 60 days, commencing on June 30, 2023, in which the United States would report its progress. Should the Court have any questions or concerns regarding these status updates, conferences can be scheduled. Once the United States has decided upon a path forward, the parties would then jointly propose a schedule.

Enclosed is a proposed order consistent with the foregoing for the Court's consideration.

**IV. Proposed Schedule and Arguments by Intervenor Occidental Chemical Corporation**

[OCC, if we can agree to the limited language above, we would eliminate this section and the ones below.]

**V. Oppositions to Proposed Schedule or Arguments by Intervenor Occidental Chemical Corporation**

**A. United States**

[place holder for any responses or opposing views to proposed schedule/positions by other parties]

**B. Intervenor Pharmacia LLC**

[place holder for any responses or opposing views to proposed schedule/positions by other parties]

C. Intervenor Nokia of America Corporation

[place holder for any responses or opposing views to proposed schedule/positions by other parties]

D. Intervenor PVSC

[place holder for any responses or opposing views to proposed schedule/positions by other parties]

E. Settling Defendants

[place holder for any responses or opposing views to proposed schedule/positions by other parties; may need further subsections if different settling defendants hold different views]